

Application No. 09/921,097
Amendment dated June 22, 2009
Reply to Final Office Action of December 22, 2008

REMARKS

Applicant amended Independent claims 31, 43, and 59 to further define Applicant's claimed invention. No new matter has been added.

In the Office Action, the Examiner rejected claims 16-19, 27, 28, and 75-78 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,483,986 to Krapf ("Krapf") in view of U.S. Patent No. 6,986,156 to Rodriguez ("Rodriguez"); rejected claims 1-6, 8, 10-15, 31-33, 35, 37-42, 71-74, and 79-92 under 35 U.S.C. § 103(a) as being unpatentable over Krapf in view of U.S. Patent No. 5,929,849 to Kikinis ("Kikinis") and Rodriguez; rejected claims 55, 56, and 87-90 under 35 U.S.C. § 103(a) as being unpatentable over Kikinis in view of Krapf and Rodriguez; rejected claims 59-63 and 91-94 under 35 U.S.C. § 103(a) as being unpatentable over Kikinis in view of Krapf and Rodriguez; and rejected claims 43-45, 47, 49, 50-54, 64, 65, and 83-86 under 35 U.S.C. § 103(a) as being unpatentable over Krapf, Kikinis, Rodriguez in view of U.S. Publication No. 2002/0007493 to Butler ("Butler").

Applicant submits that in the Detailed Action, the Examiner did not reject dependent claims 66-70. Accordingly, the next action by the Examiner cannot be a final action.

In response to the Examiner rejections, in addition to the discussion below, Applicant hereby incorporates by reference the Remarks in the reply to Office Action dated September 15, 2008, used to address the rejections and the combination of references set forth in Office Action of March 13, 2008 and repeated in the current Office Action.

In rejecting the claims in the current Office Action, the Examiner cited to col. 16, lines 1-18 of Rodriguez which state:

"since the bandwidth allocation manager 125 receives the subscriber request prior to determining a bandwidth allocation schedule, the bandwidth allocation manager 125 has the option to fulfill the request using any available bandwidth. Hence, if no or a small number of subscribers have requested a particular movie that is planned to be

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transmitted according to a pay-per-view model, then the bandwidth allocation manager can "recapture" that bandwidth and allocate it to fulfill a subscriber request during the same time period if it is to result in a more financially advantageous bandwidth allocation. Additionally, when a movie is paused or stopped for a significant period of time, the VOD application server 115 may communicate to the network manager 121 and/or the bandwidth allocation manager 125 that the bandwidth allocated to the respective DHCT 14 consuming the VOD service may be reallocated. The bandwidth allocation manager may also aggregate multiple subscriber requests for the same VOD service that are received at approximately the same time." (emphasis added).

Col. 21, line 67 to col. 22, lines 1-6 of Rodriguez, not relied upon by the Examiner, state:

"[f]or example, if a subscriber order [sic] a program with Pause functionality and pauses the program, the bandwidth allocation manager may elect to recapture the unused bandwidth. When the user restarts the program, pausing functionality may be simulated by locating another broadcast or NVOD version of the program with a later start time that has reached a point in the program approximately equal to the point where the subscriber paused the program." (emphasis added).

Applicant respectfully submits that the combination proposed by Examiner does not meet all the elements of independent claims 1, 16, and 55 as previously presented; and independent claims 31, 43, and 59 as currently amended. For example, independent claim 1 recites "interrupting, at the remote location, the delivery of the video at a point in time after the interacting with the interface link so as to prevent delivery of the video over the network" and "continuing the delivery of the video over the network from the point in time when the delivery of the video was interrupted after the interacting with the interface link." In Rodriguez, there is no teaching or suggestion at least for continuing the delivery of the video from the point in time when the

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interruption occurs. Independent claims 16 and 55 include similar language to claim 1, and are allowable at least for the same reasons as claim 1.

Independent claims 31 and 43, as now amended, include "continuing the delivery of the video over the network from the point in time when the delivery of the video was interrupted after the interacting with the interface link." Independent claim 59, as now amended, includes "continuing the delivery of the video over the network from the point in time when the delivery of the video was interrupted." It is submitted that independent claims 31, 43, and 59, as amended, are allowable at least for the same reasons as independent claim 1.

The Examiner rejected claims 20, 21, 23, 25, 26, 29, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Rodriguez as applied to claim 16 above, and further in view of Kikinis; rejected claims 7 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Krapf, Kikinis, and Rodriguez as applied to claims 1 and 31 respectively, above, and further in view of U.S. Patent No. 6,154,738 to Call ("Call"); rejected claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Rodriguez as applied to claim 16 above, and further in view of Call; rejected claim 46 under 35 U.S.C. § 103(a) as being unpatentable over Krapf, Kikinis, Rodriguez, and Butler, as applied to claim 43 above, and further in view of Call; rejected claims 9 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Krapf, Kikinis, and Rodriguez as applied to claims 1 and 31 above, and further in view of U.S. Patent No. 6,184,878 to Alonso ("Alonso"); rejected claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Rodriguez as applied to claim 16 above, and further in view of Alonso; and rejected claim 48 under 35 U.S.C. § 103(a) as being unpatentable over Krapf, Kikinis, Rodriguez, and Butler, as applied to claim 43 above, and further in view of Alonso. Applicant submits that the rejections of claims 7, 9, 20, 21-25, 26, 29, 30, 34, 36, 46, and 48 are rendered moot at least because these claims depend from an allowable independent claim, or claims dependent therefrom.

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Applicant submits that independent claims 1, 16, 31, 43, 55, and 59 are patentable and that dependent claims 2-15, 17-30, 32-42, 44-54, 56, and 60-94 dependent from independent claim 1, 16, 31, 43, 55, or 59, or claims dependent therefrom, are patentable at least due to their dependency from an allowable Independent claim.

In view of the foregoing remarks, Applicant submits that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

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By: 

Amedeo B. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030